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Docket No. 0010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Stephen Hebert, et al.

Examiner: Nguyen

Group Art Unit: 3731

Serial No: 10/087,127

Filed: February 28, 2002

For: GUIDEWIRE LOADED STENT FOR DELIVERY THROUGH A CATHETER

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

FACSIMILE COVER SHEET

Enclosed with this facsimile cover sheet is a Response to the Office Action dated February 7, 2005.

Respectfully submitted,

Dated: 4/1/05

By: 

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RESPONSE

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action dated February 7, 2005.

Applicants respectfully request reconsideration of the present application and withdrawal of the rejection of the claims in view of the explanations below. It can be appreciated that these explanations were not fully presented by Applicants' prior representatives in the previous response and Applicants therefore respectfully request the Examiner's consideration of the following remarks which should clarify the claim interpretation and interpretation of the prior art.

In summary, Applicants respectfully submit that 1) the Examiner needs to consider the complete term "coaxially on" in claim 1; 2) needs to differentiate the flexible arm 52 of McIntosh from the guidewire; and 3) needs to realize that McIntosh is representative of the disadvantageous prior art which Applicants' specification expressly describes.

In the Office Action, claims 1-3 and 7-11 were rejected as anticipated by U.S. Patent No. 6,679,909 (McIntosh). Claim 12 was rejected as obvious over McIntosh in view of U.S. Patent 4,586,923 (Gould).

In the rejection, the Examiner in discussing McIntosh identified "elongate wire 52, stent 60, sheath member 24 and radiopaque marker band 60." The Examiner further stated, "McIntosh discloses in figure 4 where an expandable stent (60) positioned coaxially on the wire (52). The examiner considers a stent positioned coaxially on the wire is a broader term. In fact, the device of McIntosh in fig. 4 when the expanding stent 60 is in the compressed state, then the stent would be capable of positioning on or about the wire 52."

Applicants submit that McIntosh does not anticipate the invention defined in claim 1. McIntosh is representative of the prior art discussed in the Background Section of Applicants' specification. McIntosh is representative of larger sized catheters with guidewire lumens which can present body access problems. Applicants' invention, in contrast, as explained in the specification, advantageously provides a reduced cross-sectional dimension to enhance body access. This is achieved by mounting the stent on the guidewire. McIntosh's mounting of the stent on the catheter does not achieve this and is inapposite to the claimed invention. That is, the McIntosh stent is mounted on the catheter assembly, not the wire as in the present invention.

Claim 1 recites an elongate wire and a radially expandable stent positioned "coaxially on" the wire. The Examiner, in his rejection, appears to be only reading the word "coaxial" and ignoring the term "on" in the claim. This is improper. As explained below, McIntosh fails to disclose a stent positioned on a wire.

It is clear that McIntosh discloses a rapid exchange catheter which is inserted over a guidewire. It is clear that the stent is positioned over the catheter, not the wire. Item 52 identified by the Examiner is a flexible arm. Item 52 is not a wire having a stent thereon:

Inner member 22 further includes a helical coil 46 having a proximal end 48 and a distal end 50. The helical coil may be positioned surrounding the guidewire lumen 40 at a location on the guidewire lumen where it extends coaxially with the catheter 34. (col. 4, lines 53-57)

The helical coil 46 may be connected to the catheter by means of flexible arms 52 which extend from the coil to a ring 54 surrounding the catheter 34 and crimped onto the catheter... The arms are adapted to transfer axial force from the catheter 34 to the helical coil 46. It will be appreciated that the helical coil 46 provides a degree of stiffness to the inner member at a position where there is no catheter, while at the same time providing adequate flexibility. (col. 4, lines 57-67)

Claim 1 of the present invention recites the stent is positioned coaxially on the wire. Clearly, this feature is not disclosed or suggested in McIntosh. In fact, the stent 60 of McIntosh is spaced from and distal of flexible arm 52. It is positioned on inner member 22 which has a guidewire lumen 40. Thus, McIntosh lacks a radially expandable stent positioned coaxially on the wire and does not anticipate the claim. Withdrawal of the rejection of claim 1 is respectfully requested.

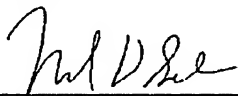
Claims 2, 3, and 7-12 depend from claim 1 and are therefore believed patentable for at least the same reasons as claim 1 is believed patentable. Further, the Gould patent, applied specifically to claim 12, does not cure the deficiencies of McIntosh.

Applicants respectfully submit that this application is now in condition for allowance. Prompt and favorable reconsideration of the present application is respectfully requested. The Examiner is invited to contact the undersigned should the Examiner believe it would expedite prosecution.

Note the Applicants have not received the initialed Information Disclosure Statement which was filed on March 27, 2002. Applicants request return of the initialed PTO 1449.

Respectfully submitted,

Dated: 4/1/05

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